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BRITISH COLUMBIA
MARKETING BOARD

Annual Performance Report

2000 | 2001

BRITISH COLUMBIA

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MESSAGE FROM THE CHAIR/ CHIEF EXECUTIVE OFFICER

This annual performance report records the challenges and accomplishments of another eventful year for the British Columbia Marketing Board (BCMB).

During 2000/01, the BCMB put in place a new corporate structure that separates its supervisory and dispute resolution roles to ensure that these two functions are carried out impartially and without compromise. The changes to the BCMB's operations set out in its governance policy are described briefly as part of this report's supplementary information.

Throughout the year, developments in the chicken industry continued to be the focus of a great deal of attention. There was initially a strong reaction against the BCMB's recommendation to have the government replace elected members of the British Columbia Chicken Marketing Board with appointed members. Relations did not improve when the BCMB directed the Chicken Marketing Board to give notice to leave the National Allocation Agreement because the board could not meet the terms of the BCMB's earlier supervisory decision. Soon after, the Supreme Court of British Columbia ruled the National Allocation Agreement "null and void" because B.C. was not party to the Federal/Provincial Agreement (FPA) for chicken.

Chicken production became a particularly important issue on Vancouver Island with the closure of the Island's only chicken processing plant. Further controversy was created when the BCMB directed the Chicken Marketing Board not to extend the grower and processor subsidy for transporting chicken off of Vancouver Island.

The Chicken Marketing Board carried out a detailed process to develop new regulations and negotiated a new FPA. These processes involved the BCMB in both its dispute resolution and supervisory roles. The Primary Poultry Processors Association of British Columbia appealed the implementation of the new regulations: after a lengthy hearing, the appeal was withdrawn. On the supervisory side, the BCMB worked with industry stakeholders and the other proposed signatories to ensure that the FPA served the public interest. It is expected that a new agreement will be signed early this fiscal year. The decision to recommend that the elected growers board be replaced was taken as a last resort following numerous attempts to address problems in the chicken industry. The resulting improved operations of the industry support this decision.

The BCMB also worked very closely with the British Columbia Egg Marketing Board and other industry stakeholders on the issues of quota for new entrants, and regional and specialty production. Acting within its supervisory jurisdiction, the BCMB cancelled the Egg Marketing Board's order to allocate B.C.'s increased quota allocation on a pro rata basis to existing producers. The BCMB then carried out an extensive Egg Quota Allocation Review of the requirements for regional, new entrant, and specialty production. When the Egg Marketing Board failed to address the review panel's findings, it was directed by the BCMB to allocate a portion of the increased allocation to meet the requirements addressed in the review. The BCMB continues to monitor the progress of the Egg Marketing Board to meet the objectives of this extensive review process.

BCMB Board members and staff were also busy throughout the year developing policies and procedures to improve the BCMB's administrative practices and accountability. This work included preparing a three-year performance plan in compliance with the provincial *Budget Transparency and Accountability Act* and completing a comprehensive governance policy.

Other specific activities undertaken by the BCMB are highlighted in the "Report on the Performance Plan" section of this report.

The volume of work and accomplishments during the past year were possible only through the dedicated efforts of the BCMB members and staff. Particular mention goes to Christine Elsaesser, vice chair, who handled the dispute resolutions. The quality of appeal decisions has earned the BCMB a position of respect within the industry, and a considerable degree of deference by the courts.

The BCMB's primary responsibility is to ensure that the provincial regulated marketing system operates in the public interest. This aspect of its operation is crucial for the system to retain the continued support of government and the public, and it remains a central focus of our work.

Ross Husdon, P.Ag.
Chair and Chief Executive Officer

BCMB PROFILE

INTRODUCTION

The BCMB was established under the *Natural Products Marketing (BC) Act.* The BCMB's three principal roles, which are described in detail later in this report, are supervisory, appellate and signatory.

The BCMB is accountable to government for its administrative operations, but is independent of government in its decision-making in both the supervisory and appellate functions. As an independent tribunal, the Board ensures that the public interest is served and protected.

VISION

The BCMB envisions a future in which the B.C. marketing boards and commissions operate effectively in compliance with legislation.

MISSION

The BCMB exercises its independent statutory mandate to ensure that B.C. marketing boards and commissions operate in compliance with the governing legislation and policies.

VALUES

The BCMB values a regulated marketing system that operates in the best interests of B.C., and in an environment of mutual respect, accountability and fiscal responsibility.

In exercising its supervisory, appellate and signatory roles, the BCMB will act with discretion and integrity and be guided by the following principles:

- proactive, flexible and cooperative leadership,
- open and transparent consultation with interested parties,
- accessible and efficient practices and services, and
- independent, impartial, timely and consistent dispute resolution and decision-making.

To most effectively carry out its mandate, the BCMB believes that it is important for the BCMB and marketing boards and commissions (hereafter "marketing boards") to:

- have the opportunity for professional development through an appropriate training program, and
- maintain their professionalism through the observance of their Codes of Conduct and their membership in the B.C. Council of Administrative Tribunals.

PROFILE

The *Act* gives the provincial government the authority to regulate the marketing and/or production of agricultural products. Producers may join together and ask the government to exercise that authority to regulate a specific agricultural product. If the request is granted, a marketing scheme is established as a regulation under the *Act*, and a marketing board is formed to administer the regulation.

This regulated marketing system has been in effect for some British Columbia agriculture products since the 1930s, but the majority of marketing schemes were created in the mid-1960s. The system has provided economic stability to large sectors of the industry in British Columbia, and the value of the regulated marketing sector has steadily increased over the past three decades. That progress continues today.

The BCMB was established in 1935 under the *Act* to supervise the marketing boards. Over the years, its role has been expanded, and its authority redefined. The BCMB's primary mandate today is to administer the regulated marketing legislation in the public interest. The members of the BCMB are appointed by the Lieutenant-Governor-in-Council.

The BCMB has three principal responsibilities: supervising all marketing boards, acting as the appellate body to hear appeals from any person who is aggrieved or dissatisfied by an order, decision or determination of a marketing board, and as a signatory to Federal/Provincial Agreements (FPAs) that govern the marketing of some regulated products.

The BCMB's primary mandate today is to administer the regulated marketing legislation in the public interest.

The BCMB is strategically and operationally bound to effective, independent and accountable conduct, which offers a balanced response to stakeholders in the regulated marketing sector and to the public.

THE BCMB'S SUPERVISORY ROLE

The *Act* provides the BCMB with broad discretionary powers of supervision.

The BCMB's supervisory responsibilities are carried out through:

- contacting marketing boards, on a regular basis, and directly consulting with them about existing and emerging issues,
- conducting supervisory reviews as appropriate, on issues as they arise in the administration of a marketing scheme,
- examining orders and policies adopted by the marketing boards, to ensure that they do not violate existing legislation, exceed their powers or authority, or unfairly affect producers or other interested parties,
- exercising the authority to amend, revoke or cancel any order made by a marketing board, and
- exercising the authority to conduct audits and investigations, where there is reason to believe that a marketing scheme is being contravened.

THE BCMB'S APPELLATE ROLE

As a quasi-judicial appeal body, the BCMB is empowered to hear appeals from any person who is aggrieved or dissatisfied by an order, decision or determination of a marketing board in British Columbia.

When an appeal is filed, the BCMB will first suggest that the matter be resolved by an alternate dispute resolution process, usually mediation. A substantial number of appeals are resolved by agreement between the parties using these processes and mediators provided by the BCMB. The

BCMB is also encouraging marketing boards to develop their own alternate dispute resolution processes to address issues before an appeal to the BCMB becomes necessary.

If alternate dispute resolution is unsuccessful, or unsuitable for the issues involved in an appeal, the BCMB convenes a hearing. The purpose of this hearing is to listen to testimony and receive evidence from the appellant, the respondent marketing board, and any parties with a demonstrated interest in the matter. Hearings are normally open to the public. The BCMB may dismiss the appeal, confirm or vary the order, decision or determination being appealed, return the matter to the respondent marketing board for reconsideration, or make another order that it considers appropriate in the circumstances. The BCMB's decisions may be appealed only to the Supreme Court of British Columbia, and only on a question of law.

The BCMB's dispute resolution process provides all parties with impartial and fair resolutions to disputes. The BCMB's appellate role also ensures that marketing boards remain accountable in the exercise of their authority under the *Act*.

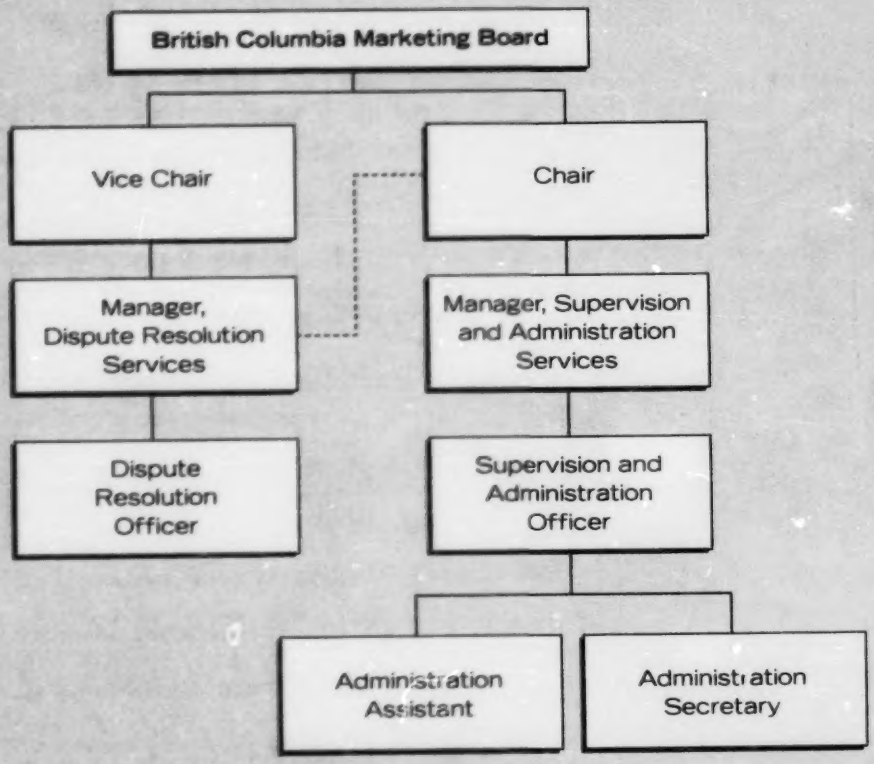
THE BCMB'S SIGNATORY ROLE

The BCMB, with the Minister of Agriculture, Food and Fisheries, and the respective marketing boards, is a signatory to most FPAs. The BCMB is responsible for supervising the compliance of the provincial marketing boards with the provisions of the FPAs. Prior approval of the BCMB is required before a marketing board may enter into most FPAs or agreements with other provincial and/or federal boards.

Federal/Provincial Agreements govern the interprovincial and export marketing of table eggs, chicken, broiler hatching eggs, turkey and milk.

FPAs govern the interprovincial and export marketing of table eggs, chicken, broiler hatching eggs, turkey and milk. Orderly marketing of these commodities is achieved through FPAs that provide for cooperation in the exercise of federal and provincial authority. At the federal level, a national agency, composed of representatives of each province's marketing board and members from other national organizations representing industry stakeholders, determines the national demand for a commodity, which is then allocated to each province after allowing for levels of imports and unregulated production. The provincial marketing board allocates this provincial allotment to the producers in that province. Under the supply management system, domestic production is protected by a tariff on imports.

BCMB ORGANIZATION



B.C. MARKETING BOARDS AND COMMISSIONS

The following marketing boards and commissions currently operate within British Columbia:

SUPPLY-MANAGED INDUSTRIES

- British Columbia Broiler Hatching Egg Commission
- British Columbia Chicken Marketing Board
- British Columbia Egg Marketing Board
- British Columbia Milk Marketing Board
- British Columbia Turkey Marketing Board

REGULATED INDUSTRIES

- British Columbia Cranberry Marketing Board
- British Columbia Grape Marketing Board
- British Columbia Hog Marketing Commission
- British Columbia Mushroom Marketing Commission
- British Columbia Tree Fruit Marketing Board
- British Columbia Vegetable Marketing Commission

THE BCMB IN 2000/01

ENVIRONMENTAL SCAN

The regulated marketing system, like many other agricultural sectors, has faced significant and far-reaching changes in the last decade. Because our markets are increasingly global in scope, distant economies and evolving consumer preferences influence and affect B.C. more quickly and acutely than ever before. Today, a corporate merger on the other side of the world can close a local processing plant, or consumer demand for a product can suddenly spur production.

Global market pressures affect almost all commodities in every jurisdiction. B.C.'s relationship with the Canadian and other provincial governments is, therefore, also affected, as all provinces look for solutions within our national borders.

Reflecting today's environment, appeals continue to become more complex, dealing with structural and economic issues involving national agreements, regional issues, and price-discovery processes. This increasing complexity of issues has also resulted in hearings by the BCMB that are longer, more involved, and more costly for everyone concerned.

A corporate merger on the other side of the world can close a local processing plant, or consumer demand for a product can suddenly spur production.

CHALLENGES

The primary challenges currently facing the BCMB include:

- balancing complex supervisory and appellate responsibilities and roles,
- maintaining independence from the Ministry of Agriculture, Food and Fisheries, while continuing an appropriate level of constructive debate on issues of joint jurisdiction,
- responding to social and business trends toward decreased regulation and the rise of special interest groups, and
- effectively carrying out the full range of its responsibilities in a climate of fiscal restraint.

OPPORTUNITIES

Because of its unique roles and position, the BCMB also has distinct opportunities. Some of those include:

- working effectively as an independent, results-oriented Board; one that is small, highly focused, and adaptable in responding to change,
- working with marketing boards to improve decision-making and reduce the amount and frequency of disputes,
- ensuring that the regulated marketing system sector has the regulations and, through the performance planning process, the tools to explore market opportunities,
- taking the initiative to enhance communications with a broad and diverse range of government, public and interested persons, and
- developing the potential of the BCMB's unique position by creating and maintaining a constructive and progressive Memorandum of Understanding with the Minister of Agriculture, Food and Fisheries.

KEY STRATEGIC ISSUES

In working to maintain efficiency and accountability, the BCMB balances its responsibilities and roles with the complex factors affecting the B.C. regulated marketing system. This means taking into account external economic, environmental and cultural trends directly affecting the regulated marketing system, and managing internal operations responsibly and efficiently to meet these challenges.

The BCMB has worked during 2000/01 and set its objectives for the fiscal years 2001/02 to 2003/04 in response to the following key strategic issues:

- balancing complex responsibilities and roles,
- maintaining appropriate policy-making and operational independence,
- working within business trends of decreased regulation and increased litigation,
- helping marketing boards deal with the provincial and industry-wide effects of regional specialty production and consumer choices,
- addressing concerns specific to how commodity marketing boards operate (e.g., amendments to the *Act* and the marketing schemes, the structure and composition of the board, and the impact of quotas),
- responding to whole-scale industry changes, such as the consolidation of processing, distribution and retail operations,

The BCMB balances its responsibilities and roles with the complex factors affecting the B.C. regulated marketing system.

- **fostering a greater understanding of the regulated marketing system in general, and the BCMB's mandate in particular, and addressing misconceptions about the system, and**
- **functioning effectively with limited resources in a broad climate of fiscal restraint.**

REPORT ON THE PERFORMANCE PLAN

STRATEGIC GOAL 1

The regulated marketing system operates effectively and in a manner that protects the public interest.

STRATEGIC OBJECTIVE 1

Commodity marketing boards operate effectively and accountably within the governing legislation and policy.

KEY STRATEGIES	PERFORMANCE MEASURES	2000/01 ACCOMPLISHMENTS
• Supervise the operations of marketing boards to ensure that they are effectively administered and that they comply with governing legislation and policies.	• Monitor the conduct of boards and commissions to confirm that they are operating according to their governing legislation and policies.	• The chicken industry has been the subject of a number of initiatives by government and the BCMB to improve relations between the British Columbia Chicken Marketing Board, the processors, and the growers. Despite these efforts, the industry remained fractured and dysfunc-tional. In January 2000, the government, on the recommendation of the BCMB, amended the B.C. Chicken Marketing Scheme and replaced the elected members with an appointed board. During the past year, the Chicken Marketing Board has put in place a regulatory system and established procedures and policies that have substantially improved industry operations. • In January 2001, the BCMB confirmed approval for the British Columbia Milk Marketing Board to enter the Comprehensive Agreement on Pooling of Milk Revenues. This was the culmination of extensive work on the part of the Milk Marketing Board to obtain more equitable cost-sharing and allocation conditions for B.C. The result is increased production and reduced costs for B.C. milk producers. • The BCMB worked with the British Columbia Vegetable Marketing Commission to develop changes in their structure to reflect changes in the industry.

KEY STRATEGIES	PERFORMANCE MEASURES	2000/01 ACCOMPLISHMENTS
		• The BCMB worked with the British Columbia Broiler Hatching Egg Commission to establish terms and conditions under which the commission would receive monies from the Ontario Hatching Commission as part of the normalization of the national broiler hatching egg allocation. Under the agreement, the Hatching Egg Commission receives a payment of $1.8 million in 60 monthly instalments. The Hatching Egg Commission has established an industry advisory committee to receive and review project proposals from producers and industry stakeholders for disbursement of funds, and to recommend which proposals should be adopted and funded. The BCMB worked with the Hatching Egg Commission and the Egg Marketing Board to develop a program to ensure that broiler hatching eggs did not enter the retail egg market. There were concerns that surplus hatching eggs represented a potential health hazard, since they were not handled in the manner required for table eggs. • The BCMB worked with the British Columbia Cranberry Marketing Board to implement a volume production order to cut back production. This was part of the Cranberry

KEY STRATEGIES	PERFORMANCE MEASURES	2000/01 ACCOMPLISHMENTS
		Marketing Board's co-operative actions with other production regions in North America to address the overproduction of cranberries.
	• As issues arise in the administration of a marketing scheme (e.g., in the case of aggrievement, or when the actions of the marketing board may not be in the public interest), the BCMB convenes an appeal hearing or supervisory review, as appropriate.	• The B.C. Egg Marketing Scheme requires that the BCMB prior-approve changes in quota allocation. In June 2000, the Egg Marketing Board allocated most of B.C.'s quota, on a pro rata basis, to existing producers. The BCMB, acting under its supervisory mandate, cancelled this allocation and held an extensive Egg Quota Allocation Review on the requirements for new entrants, and regional and specialty egg production. Following the review, the BCMB directed the Egg Marketing Board to implement a permit program to address these requirements. In October 2000, Island Eggs Ltd. of Vancouver Island acquired a major retail table egg account, but the company was not able to access what it considered to be a satisfactory supply of Vancouver Island-produced eggs from the Egg Marketing Board. The BCMB held a public hearing to receive submissions, and it reviewed confidential business information from Island Eggs Ltd. and Golden Valley Foods Ltd. (the previous supplier) at two in-camera sessions. The BCMB supported the Egg Marketing Board's decision not to direct Island producers

KEY STRATEGIES	PERFORMANCE MEASURES	2000/01 ACCOMPLISHMENTS
		to ship to Island Eggs Ltd. The BCMB rationale was that it is not appropriate for regulation to interfere in the choice of an agency's marketing plan.
	• Industry advisory committees and other consultation instruments are reviewed, as appropriate.	• The BCMB supports the use of industry advisory committees as a decision-making tool for marketing boards. Properly constituted, the committees provide expert and broad-based advice and generate increased industry stakeholder awareness. In 1997, the BCMB issued policies to marketing boards regarding industry advisory committees. In 2000, further policy direction was given to the Tree Fruit, Egg, and Cranberry marketing boards on the operation of these committees, to help the boards develop a flexible, workable process for more effective operation of their industry advisory committees.
	• Internal tracking procedures are implemented to ensure that supervisory issues are dealt with in a timely fashion.	• A comprehensive tracking document was developed and a list of supervisory issues is in place and updated quarterly. This ensures that the BCMB addresses and acts on regulated marketing issues in a timely manner, clearly assigns responsibilities and due dates to actions, and makes the most efficient use of the organization's resources in managing a large number of supervisory issues.

KEY STRATEGIES	PERFORMANCE MEASURES	2000/01 ACCOMPLISHMENTS
	• By September 30, 2000, complete the regulation review process.	• In February 1999, the BCMB completed the regulation review process and published the report on its Review of the Regulated Marketing System. That report included the recommended changes, identified during the regulation review process, to the *Natural Products Marketing (BC) Act* and to the individual marketing board schemes. The recommendations from that report were never fully implemented. During 2000, the BCMB worked with the Ministry of Agriculture, Food and Fisheries to prioritize changes to the schemes. Completion of the review process has been deferred to 2001 as part of the *Performance Plan 2001/02 - 2003/04*.
	• Marketing boards export programs meet Canada's trade commitments.	• Effective August 2000, the Milk Marketing Board exempted commercial export milk from the provisions of its consolidated order, to ensure that the Milk Marketing Board does not directly or indirectly influence the formation of commercial export contracts. The Milk Marketing Board regulation was amended in December 2000. These actions followed the establishment of a World Trade Organization (WTO) compliance panel process at the request of New Zealand and the United States. In October 1999, the WTO found that some Canadian dairy industry pricing practices for milk sold for export dairy products constituted export subsidies. Canada implemented changes

KEY STRATEGIES	PERFORMANCE MEASURES	2000/01 ACCOMPLISHMENTS
		to meet the demands of the WTO Agreement on Agriculture, but New Zealand and the U.S. maintained that the changes were inadequate. They then issued lists of potential retaliatory actions and requested that a WTO compliance panel review the issue. An appeal and arbitration could follow the panel's ruling, delaying a final decision until January 2002. (Retaliatory actions cannot be taken before the process is finished.)
• Participate in the development of Federal/Provincial Agreements to ensure that the provincial interest is recognized and protected, and supervise the operations of marketing boards within the agreements.	• Participate in the National Association of Agri-Food Supervisory Agencies' (NAASA's) development of Federal/ Provincial Agreements.	• The BCMB, working with NAASA, developed a model Federal/Provincial Agreement (FPA). In June 2000, the B.C. Supreme Court ruled that the Chicken Marketing Board could not participate in the National Allocation Agreement administered by the Chicken Farmers of Canada. Mr. Justice Lowry ruled that the Chicken Marketing Board could not fetter its decision-making authority to the Chicken Farmers of Canada, in the absence of an FPA (B.C. had withdrawn from the agreement in 1989.) The development of an agreement for chicken has been a major initiative by the producers and the Chicken Marketing Board. National Farm Products Council supervisory boards, the Chicken Farmers of Canada, and the provincial Chicken Marketing Boards met throughout 2000 to draft the framework and contents of an FPA and an operating agreement. As of March 31, 2001, the FPA was being finalized.

KEY STRATEGIES	PERFORMANCE MEASURES	2000/01 ACCOMPLISHMENTS
	• Finalize the BCMB's position on the Federal/ Provincial Agreement for chicken.	• In February 2001, a BCMB committee, the Chicken Marketing Board and the Ministry of Agriculture, Food and Fisheries (as proposed signatories to the agreement) conducted a consultation process and reviewed the FPA. In March, the BCMB approved the Chicken Marketing Board entering into a service agreement with the Chicken Farmers of Canada that would enable these two agencies to work together until the FPA was signed and in place.

STRATEGIC OBJECTIVE 2

The BCMB is administratively efficient in providing effective supervision and dispute resolution services in a transparent and accountable manner.

KEY STRATEGIES	PERFORMANCE MEASURES	2000/01 ACCOMPLISHMENTS
• Provide a dispute resolution system that maintains the integrity of the regulated marketing system.	• Conduct timely and effective appeal hearings.	• During the fiscal year, the BCMB heard a number of appeals from the chicken industry arising from new orders and regulations issued by the Chicken Marketing Board. The BCMB upheld the Chicken Marketing Board's authority to establish over- and under-production penalties in deciding several of these appeals. Other appeals concerning a host of issues, including export production, supply, leasing and contracts, were withdrawn, by agreement, after nine days of hearing and five preliminary decisions by the BCMB. • Authority to export production was also the subject of an appeal from the B.C. vegetable greenhouse industry. The BCMB referred this matter back to the Vegetable Marketing Commission for review, and it is now in the courts. • Other appeals dealt with egg industry issues. Decisions of the BCMB identified a requirement for improved regional and specialty egg production and marketing opportunities.

KEY STRATEGIES	PERFORMANCE MEASURES	2000/01 ACCOMPLISHMENTS
	• By March 31, 2001, implement the 1997 *Natural Products Marketing (BC) Act* amendments.	• The implementation of the 1997 amendments has been deferred to March 31, 2002.
• Establish effective working relations with the marketing boards and with the Ministry of Agriculture, Food and Fisheries which recognize the independence of the BCMB and marketing boards as regulatory agencies, and the ministry role in setting policy objectives for the regulated marketing system.	• Initiate a process to develop and implement a revised BCMB/ministry Memorandum of Understanding that addresses the independence of the BCMB and maintains an appropriate level of constructive debate about the ministry's policy role.	• The BCMB reviewed the British Columbia Council of Administrative Tribunals (BCCAT) and the Circle of Chairs model memorandum in preparation for developing a memorandum with the ministry. A revised memorandum is expected to be finalized in 2001/02. (BCCAT is an association of members and staff of regulatory and adjudicative agencies, boards, commissions and tribunals that perform quasi-judicial functions. Incorporated as a non-profit society in 1996, BCCAT sponsors and carries out research and educational programs related to all aspects of administrative law. The Circle of Chairs is an informal association of the chairs of tribunals who meet to discuss and share information on topics of mutual interest.)
• Operate the Board in accordance with applicable government administration policies.	• Develop a strategic plan for 2001/02 and a performance plan for 2001/02 to 2003/04.	• By March 31, 2001, the BCMB had developed the *Strategic Plan 2000 - 2003*, and was completing the *Performance Plan 2001/02 - 2003/04* (for tabling before April 30, 2001), in keeping with the requirements of the *Budget Transparency and Accountability Act*.

KEY STRATEGIES	PERFORMANCE MEASURES	2000/01 ACCOMPLISHMENTS
	• Develop and put in place effective Board member and employee performance plans and reviews each year.	• Employee performance plans are in place and are reviewed as appropriate. • The BCMB has defined measures that will be used to evaluate Board members.
	• Operate in compliance with external agencies and government standards, including standards for human resources and fiscal management.	• The BCMB has established an Internal Review Policy and Procedure. This process is an informal way for the public to voice complaints and offer suggestions for improved service. This input may concern the procedures employed by the BCMB, the conduct of a Board member or staff person (before, during or after a hearing), or any action of the BCMB. This process also ensures that these concerns are dealt with appropriately.
	• Ensure that the requirements of the BCMB Code of Conduct are routinely met, and that members are aware of government standards of conduct and performance.	• The BCMB developed a Governance Policy that sets out how the BCMB will govern itself in an effective and accountable manner and ensure that the public interest is served and protected.
	• The BCMB provides efficient administration services to the Farm Practices Board on an ongoing basis.	• Throughout 2000/01, the BCMB continued to provide efficient and cost-effective administrative services to the Farm Practices Board.

KEY STRATEGIES	PERFORMANCE MEASURES	2000/01 ACCOMPLISHMENTS
• Develop an effective communications program that fosters a greater awareness of the BCMB's activities.	• By December 31, 2000, develop and approve a communications policy.	• In cooperation with the Ministry of Small Business, Tourism and Culture, a prototype Web site was developed. The BCMB is now refining and adding information to the site for clients and the public, including instructions on how to file an appeal, and links to marketing boards.

STRATEGIC GOAL 2

To enhance the viability of the regulated agri-food industry.

STRATEGIC OBJECTIVE 1

Encourage the regulated agri-food industry to recognize and promote new and emerging production and marketing opportunities.

KEY STRATEGIES	PERFORMANCE MEASURES	2000/01 ACCOMPLISHMENTS
• The BCMB will work with marketing boards to establish appropriate policies for the regulation or exemption of the production and marketing of organic, specialty, or niche categories of the regulated product.	• Monitor and facilitate the completion of protocols for organic and specialty production, and supervise their transition to regulation.	• In 1999, the BCMB held meetings with marketing boards and the Certified Organic Associations of British Columbia to discuss how organic production would be incorporated into the regulated marketing system. Consultations between the marketing boards and the Association were unsuccessful. Despite efforts by the Minister of Agriculture, Food and Fisheries (i.e., a committee and a facilitator), the parties did not achieve consensus. Organic production has been accommodated in some of the regulated systems. The Egg Marketing Board continues to hold negotiations to accommodate organic egg production.
	• Review the composition of industry advisory committees in terms of organic and specialty representation.	• The BCMB continues to work with marketing boards to ensure that industry advisory committees have representation for organics and specialty production. The specialty egg producers are now represented on the Egg Industry Advisory Committee.

FINANCIAL REPORT

EXPENDITURES 2000/01

	Budget $ 2000/01	Actual $ to March 31, 2001	Expended %	Remaining funds $	Remaining %
BCMB					
Salaries	390,000	382,708	98%	7,292	2%
Benefits	71,097	78,132	110%	(7,035)	(10%)
Travel – members	140,000	150,857	108%	(10,857)	(8%)
Travel – chair and staff	23,000	35,781	156%	(12,781)	(56%)
Contracted services	40,565	21,535	53%	19,030	47%
Legal/consulting	60,000	50,151	84%	9,849	16%
Computer services	1,000	4,601	460%	(3,601)	(360%)
Meetings/Appeals/ Office expenses	26,500	33,886	128%	(7,386)	(28%)
Advertising/publications	–	881	–	(881)	–
Occupancy	68,713	65,991	96%	2,722	4%
BCMB Totals	**820,875**	**824,523**	**101%**	**(3,648)**	**(1%)**

	Budget $ 2000/01	Actual $ to March 31, 2001	Expended %	Remaining funds $	Remaining %
FPB					
Travel – members	32,000	34,322	107%	(2,322)	(7%)
Travel – chair and staff	9,000	9,323	104%	(323)	(4%)
Contracted services	11,625	3,457	30%	8,168	70%
Legal/consulting	10,000	2,170	22%	7,830	78%
Meetings/Appeals/ Office expenses	12,500	5,696	46%	6,804	54%
FPB Totals	75,125	54,968	73%	20,157	27%
BCMB AND FPB TOTALS	**896,000**	**879,491**	**98%**	**16,509**	**2%**

NOTES:

- The BCMB is supported by six staff members.
- The BCMB provides administrative services for the Farm Practices Board.
- BCMB operations and salaries are funded through the Ministry of Agriculture, Food and Fisheries as a distinct vote allocation.

APPEALS ADMINISTRATION 2000/01

BACKGROUND

The BCMB received 28 appeals during the 2000/01 fiscal year. With carry-overs from previous years, a total of 53 appeals were administered. Of those, 10 were withdrawn (including three after nine days of hearing, and five on preliminary decisions), nine were facilitated/mediated and withdrawn, 11 were decided after hearings, one was dismissed as frivolous and vexatious, one was ruled out of time, seven are in hearings, and 14 are adjourned pending mediation/facilitation or a hearing.

The 28 total appeals received during 2000/01 is the average for appeals filed each year over the last decade. Since 1991, the BCMB has been able to resolve a significant number of all appeals by alternate dispute resolution. Comparative figures are shown, below, for the past three years.

SUMMARY OF APPEALS ADMINISTERED BY FISCAL YEAR

Year	1998/99	1999/00	2000/01
Appeals			
Total administered (including carry-overs)	36	45	53
Filed	26	27	28
Withdrawn	2	5	10
Facilitated/Mediated	8	9	9
Heard/In hearings	15	14	20
Adjourned for mediation/hearing	11	17	14
Active appeals as of March 31	18	25	22

NOTES:

- "Total administered" is carry-over appeals from previous year plus new appeals filed.
- Appeals are usually "Adjourned for mediation/hearing" because the appeal has been recently filed, or facilitation/mediation is underway, or a hearing has yet to be scheduled.

SUMMARY OF APPEALS FILED IN 2000/01

By Marketing Board/Commission		By Issue of Appeals	
Chicken Marketing Board	8	Quota/Permit	12
Egg Marketing Board	8	Illegal Marketing	3
Milk Marketing Board	4	Regulatory Restructuring	3
Mushroom Marketing Commission	1	Minimum/Maximum Farm Size	2
Turkey Marketing Board	3	Handling/Freight Charges	2
Vegetable Marketing Commission	4	Specialty/Niche Marketing	2
		Production Allocation	1
		Marketing	2
		Pricing	1
TOTALS	**28**		**28**

SUPPLEMENTARY INFORMATION

REVIEW OF FEDERAL/ PROVINCIAL AGREEMENTS

On July 16, 1998, federal, provincial and territorial ministers and deputy ministers of Agriculture agreed that the Federal/Provincial Agreements (FPAs) used by the national turkey, egg and broiler hatching egg marketing agencies should be revised to make them more flexible. The National Association of Agri-Food Supervisory Agencies led the consultations with the four national poultry agencies and provincial poultry producer boards to revise the FPAs. The association was at the stage of finalizing a model two-tier agreement, which would have been adapted to each of the four FPAs under review. Using the two-tier model, separate agreements would have been signed by federal and provincial ministers and by national agencies and commodity boards.

However, as a result of a decision in the Supreme Court of British Columbia in 2000 (*Hallmark Poultry Processors Ltd. et al. v. B.C. Marketing Board et al.*), it was established that producer boards do not have the unilateral power to "fetter their discretion" to enter into binding supply management agreements between producer boards, without the appropriate government authority in place. British Columbia withdrew from the FPA for Chicken in 1989. The B.C. chicken industry operated alongside the national system until the British Columbia Chicken Marketing Board

entered into the National Allocation Agreement (NAA) with the national agency, the Chicken Farmers of Canada, and the other nine provincial chicken boards in 1998.

On April 5, 2000, after a petition was filed by B.C. chicken processors, Mr. Justice Lowry ruled that the NAA was an illegal fettering of the Chicken Marketing Board's authority, and entry into the agreement was void. In the decision, Mr. Justice Lowry commented that without the government authority provided by an FPA, the Chicken Marketing Board could not fetter its decision-making authority in a contractual agreement such as the NAA.

The Lowry decision significantly affected the proposed structure of FPAs.

Activities of the national association are currently focused on revising and reviewing a renewed national agreement for marketing chicken. Ultimately, national association members decided that FPAs would be one-tier agreements, which will be signed by federal and provincial ministers and supervisory and producer boards. The NAA, with some changes, is incorporated as a schedule to the FPA, called the operating agreement. That document may be amended by agreement of the federal and provincial supervisory and producer boards.

On August 15, 2000, the Chicken Marketing Board replaced its General Orders with regulations that markedly altered the manner in which the chicken industry was regulated, including changes to the regulation of domestic and export production – a very controversial issue between the marketing board, producers and processors. It was alleged that B.C. chicken processors had an advantage over other Canadian processors. Some growers alleged that the program did not provide fair access for all growers and that the program provides processors with "cheap" white meat, to the detriment of regulated domestic production. Appeals were filed by the processors against the Chicken Marketing Board regulations.

The BCMB considered that the Chicken Marketing Board regulations had a direct impact on the negotiations to develop a new FPA, and that many of the contentious issues needed to be resolved prior to finalizing the FPA. The BCMB determined that no decision would be made to enter into the FPA until the hearing of the appeal had been completed. Hearings were held over several days during the winter of 2000. Concurrently, appellants and the Chicken Marketing Board continued to negotiate contentious issues. On February 26, 2001, the appellants withdrew their appeals. Industry stakeholders were invited in January to make submissions on the draft FPA to the BCMB, the Chicken Marketing Board, and Ministry of Agriculture, Food and Fisheries. Submissions received were to be reviewed at the beginning of April 2001.

On February 7, 2001, the Chicken Marketing Board requested the approval of the BCMB to enter into a service agreement with the Chicken Farmers of Canada to bridge operations until an FPA is in place, and to remit past production levies collected from April 5, 2000 to December 31, 2000. On March 30, 2001, following further consultations and negotiations, the BCMB approved the service agreement and a letter of agreement providing for the payment of past levies and discharging the marketing board from any claim arising from the NAA and the Liquidated Damage Assessment Agreement.

If British Columbia rejoins the FPA, the BCMB and the Minister of Agriculture, Food and Fisheries must grant prior approval for the Chicken Marketing Board to legally enter into the agreement. Signatories to the FPA will then include the Minister of Agriculture, Food and Fisheries, the Chicken Marketing Board, and the BCMB.

STATEMENT OF GOVERNANCE PRACTICES AND BOARD ORGANIZATION

BOARD ORGANIZATION

The BCMB is composed of seven part-time members and a full-time chair, who are appointed by the Lieutenant-Governor-in-Council. The six staff, who are public service employees, provide support to the BCMB and the Farm Practices Board.

DUTIES OF THE BOARD

The BCMB supervises the 11 marketing boards established under the *Natural Products Marketing (BC) Act*. As a quasi-judicial appeal body, the BCMB hears appeals from any persons aggrieved or dissatisfied by a decision, order or determination of a marketing board.

ETHICAL GUIDELINES

The BCMB has adopted and follows a Code of Conduct and a Conflict of Interest policy. Staff are subject to the Standards of Conduct for Public Service Employees.

REMUNERATION POLICY/EXECUTIVE COMPENSATION GUIDELINES

The chair receives salary and benefits as established in the appointment order-in-council. The BCMB members are compensated at the rates set by Treasury Board for regulatory board members.

OPERATIONS

In April 1999, the BCMB separated the supervisory and appeal functions and established two divisions. The BCMB was concerned that, without clear separation of the appellate and supervisory roles, there was still the

potential for the perception of institutional bias. In other jurisdictions, separate boards handle the appellate and supervisory/policy development duties. While choosing to retain the single board structure to maintain flexibility in member assignments and administration services, the BCMB saw the need to distinguish between its appeal and supervisory functions. As well, the BCMB wanted to demonstrate clear separation of the supervisory mandate of the BCMB and the operations of the Farm Practices Board.

The BCMB began implementing the separation in April 1999. Two divisions were established: Dispute Resolution Services, and Supervision and Administration Services.

OPERATING POLICY - DISPUTE RESOLUTION SERVICES

The BCMB is responsible for ensuring that disputes in the regulated marketing system are addressed in the best interests of industry stakeholders and the public. The Board will ensure that the hearings it holds are conducted in accordance with appropriate procedures and applicable legal requirements. It will also ensure that decisions are in the public interest, made equitably in a timely manner, and communicated promptly.

The vice chair has the lead responsibility for the appellate role, and he or she will normally chair hearings. This allows the chair to meet with marketing boards and industry stakeholders on an ongoing basis.

The vice chair, with the advice of the manager of dispute resolution services, is responsible for establishing panels to hear appeals. The vice chair is not assigned commodity lead responsibilities, to ensure that he or she is not compromised. When an appeal is filed, the vice chair and the manager of dispute resolution services will identify a panel and advise the chair. Generally, four members will be reserved for the hearing.

OPERATING POLICY – SUPERVISION AND ADMINISTRATION SERVICES

To protect the public interest, the BCMB ensures that the operation of the regulated marketing system is equitable and appropriate. Supervision is carried out with due respect to the role and expertise of the marketing boards in administration of their schemes.

To enhance the BCMB's ability to help the marketing boards address specific issues, each member monitors the operations and activities of one or more marketing boards and maintains a general knowledge of the activities of the industries they manage. As the lead member for a commodity, members review programs and activities of the marketing board, meet with them to discuss the administration of the scheme, and participate in industry meetings and consultations, where it is deemed appropriate by the BCMB.

The chair oversees member performance of the supervisory role and advises the minister on the performance of the regulated marketing system. The chair is responsible for ensuring that the needs of the system are communicated to the ministry and addressed in the policy statements and programs initiated by the ministry.

BOARD MEMBERS

The *Natural Products Marketing (BC) Act* provides for not more than 10 members to be appointed to the BCMB. Members are appointed by the Lieutenant-Governor-in-Council on the recommendation of the Minister of Agriculture, Food and Fisheries. Appointees, with the exception of the chair, are part-time and are paid on a per-diem-plus-expenses basis, at rates recommended by Treasury Board. Meetings are held at the call of the chair.

The Board consists of a chair, a vice chair, and five members:

CHAIR

Ross Husdon, P.Ag., has been employed with the provincial government since 1987 and held positions as assistant deputy minister in the Ministry of Agriculture, Food and Fisheries. He is currently president and chief executive officer of the Okanagan Valley Tree Fruit Authority. Prior to his work with the B.C. government, he worked with the Livestock Feed Board of Canada (a federal Crown corporation) and in agriculture consulting and agri-business. He is a member of British Columbia Institute of Agrologists and the Agriculture Institute of Canada. Appointed chair on April 3, 1997, he is also chair of the Farm Practices Board.

VICE CHAIR

Christine Elsaesser is a practising lawyer who lives in Merritt. She has extensive experience in administrative law relating to agriculture issues. She is a member of the Law Society of British Columbia, the Trial Lawyers Association of B.C., the Canadian Bar Association – B.C. Branch, and the Farm Practices Board. Appointed to the BCMB in 1994, her current term as vice chair expires on July 13, 2003.

MEMBERS

Harley Jensen of Delta is a marketing and management consultant with extensive experience in the food and dairy industries, including serving as sales and marketing manager for a major dairy. He is a past director and president of the BC Dairy Foundation, and currently acting as interim general manager. He is also a member of the Farm Practices Board. Appointed to the BCMB in 1996, his current term expires on November 30, 2002.

Karen Webster, RPHEC, of Surrey is a home economics adult educator and consultant with extensive experience in agriculture, including employment with the Manitoba Department of Agriculture. She is a volunteer worker for 4-H and coordinator of the Professional Partners Program, a joint program of the B.C. Home Economics Association and the University of British Columbia. She is also a member of the B.C. Home Economics Association, the Canadian Home Economics Association, the International Federation of Home Economics, the Canadian Association of Gerontology, and the Farm Practices Board. Appointed to the BCMB in 1994, her current term expires on July 13, 2003.

Hamish Bruce practised criminal law and was an active member of the Greenpeace Foundation. He is currently managing director of T.S.C. Nursery Sales Ltd. in Richmond, a wholesale nursery stock supplier, and he is a member of the Farm Practices Board. Appointed to the BCMB in 1998, his current term expires on December 1, 2003.

Satwinder Bains is an Abbotsford consultant on multicultural resource management. She is actively involved in the management of a family blueberry and cranberry farm that includes a processing and marketing operation. She serves on the Canadian Council on Multicultural Health, and is chair of the B.C. Healthy Communities Multicultural Committee and the

Women's Resource Society of the Fraser Valley. She is also a member of the Farm Practices Board. Appointed to the BCMB in 1997, her current term expires on December 1, 2003.

Richard Bullock is a Kelowna orchardist and managing director of a large Okanagan orchard and agri-tourism operation. He is active in industry organisations and has served as president of the BC Fruit Growers' Association, BC Tree Fruits Ltd., and Sun-Rype Processors Ltd. He has extensive experience in international consulting, including the production and processing of agricultural crops. He is also a member on the Farm Practices Board. Appointed to the BCMB in 1998, his current term expires on November 30, 2001.

Doreen Hadland has run a family farm in the Peace River region for more than 20 years. She is active in the campaign to preserve agricultural land and was involved in creating the Peace River Farmers' Market. She is a long-time member of the National Farmers Union, and co-chaired the Union's Farm Income Crisis Committee. She is also a member of the Farm Practices Board. She was appointed to the BCMB on November 9, 2000 for a one-year term, expiring on November 8, 2001.

GLOSSARY OF TERMS

"BCMB" means the Members of the British Columbia Marketing Board, together with the organization and staff employed to administer the *Natural Products Marketing (BC) Act* (the *Act*).

"COMB" means the British Columbia Council of Marketing Boards, an association of boards and commissions established and operating under the *Act*.

"Environmental scan" means a summary of the main external factors that affect performance, with an analysis of the external economic and business environment for the planning period and an assessment of the organization's recent performance.

"Interested parties" means persons with pressing and substantial interest in an issue.

"Performance plan" means a plan published in compliance with the *Budget Transparency and Accountability Act*.

"Person" means an individual, partnership or corporation.

"Public interest" means the economic interests and legal rights of every person dealing with a regulated product, up to and including the ultimate consumer.

"Regulatory agency" means an agency, board or commission with regulatory power, which is not part of a government department. The majority of its members are appointed by government.

"Scheme" means the regulation established by the Lieutenant-Governor-in-Council to provide for the regulation, control and promotion of a regulated product.

HOW TO CONTACT THE BRITISH COLUMBIA MARKETING BOARD

For information about the BCMB and its work, the regulated marketing system in B.C., or any of the British Columbia marketing boards, please contact us:

by phone: 250-356-8945

by fax: 250-356-5131

by e-mail: bcmb@agf.gov.bc.ca

on the web: www.agf.gov.bc.ca/ministry/bcmb.htm

by post: British Columbia Marketing Board
PO Box 9129 Stn Prov Govt
Victoria, BC
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in person: 1007 Fort Street
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